

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6631**

**BILL NUMBER: SB 279**

**NOTE PREPARED: Jan 1, 2003**

**BILL AMENDED:**

**SUBJECT:** Sex Offender Registration.

**FIRST AUTHOR:** Sen. Drozda

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
**DEDICATED**  
☒ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- (A) It requires persons convicted of possession of child pornography to register as sex offenders.
- (B) It increases the penalty for a person who fails to register as a sex offender to a Class C felony for the first offense and a Class B felony for a subsequent offense.
- (C) It removes a provision permitting offenders adjudicated as sexually violent predators to be removed from the directory.
- (D) It specifies that the sex offender web site is to be: (1) operated by the Indiana Sheriff's Association; and (2) updated every 30 days.

**Effective Date:** July 1, 2003.

**Explanation of State Expenditures:** *Provision A:* The Criminal Justice Institute maintains the sex offender registry. Requiring offenders convicted of possessing child pornography to also register as sex offenders may affect the staffing requirements of the Criminal Justice Institute. [Note: This portion of the fiscal note will be updated if more information becomes available.]

The number of persons who have been convicted and sentenced for possession of child pornography has not been reported on a statewide basis. Prior to July 1, 2002, possession of child pornography was a Class A misdemeanor. P.L.3-2002 increased the penalty to a Class D felony. Since possession of child pornography was increased from a Class A misdemeanor to a Class D felony in July 1, 2002, no offenders have yet been committed to the Department of Correction (DOC) for possession of child pornography.

*Provision B:* Under current law, a person who knowingly or intentionally fails to register as a sex offender

commits a Class D felony. If the offender knowingly and intentionally failed to register a prior time then the person commits a Class C felony for a subsequent occurrence.

*Increasing a Class D felony to a Class C felony:* State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class D felony is punishable by a prison term ranging between six months and three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. DOC reports that the average length of stay for a Class D felony is 290 days, while the average length of stay for a Class C felony is 1.9 years – or 693.5 days. Consequently, these offenders would spend an additional year in prison. The added number of days an offender would spend in prison, on average, is one year and 38 days.

Relatively few offenders were committed to DOC facilities for this offense. In FY 2001, one person was committed, and in FY 2002, four were committed. It is possible that some offenders convicted of this offense were sentenced to either time on probation or in community corrections.

Offenders Committed to DOC for Failing to Register as a Sex Offender		
	<u>FY 2001</u>	<u>FY 2002</u>
Class D Felony	1	4
Class C Felony	none reported	

For the Department of Correction, if these four offenders were sentenced as Class C felons and spent an additional 290 days in prison, DOC would need to find an additional four beds for these offenders for an additional year.

*Increasing a Class C felony to a Class B felony:* Under current law, offenders who have two unrelated instances of intentionally failing to register as a sex offender are sentenced as Class C felons. As proposed, if these offenders were convicted of a second unrelated instance of not registering as a sex offender, it would be a Class B felony. The average length of stay for Class C felons is 1.9 years, while the average length of stay for Class B felons is 3.7 years.

The Department of Correction reports that no offenders are in DOC facilities for this offense. Consequently, enhancing this crime to a Class B felony would appear to have little effect on the need for additional prison beds for DOC offenders.

The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years.

*Provision C:* The number of sexually violent predators, as determined by a court, is currently not known. [Note: This portion of the fiscal note will be updated when this information is available.]

**Explanation of State Revenues:** *Provision C* would allow Indiana to comply with current federal standards that require lifetime registration for violent sexual offenders. These requirements are related to the federal

Jacob Wetterling Law and all its amendments. Compliance with federal law would ensure that Indiana continues to receive an estimated \$1 M each year. The federal grant money is passed on to state and local agencies to assist in funding programs that reduce crime and substance abuse.

No change would likely occur in state revenue as a result of this bill since criminal fines and court fees are the same for either Class D or C felonies.

**Explanation of Local Expenditures:** *Provision D:* Under the current arrangement, the Sheriffs Association is developing the website for sex offenders and will be capable of updating the website on a monthly basis. The Indiana Sheriffs Association is a 501(c)3 organization which receives its income from membership fees.

**Explanation of Local Revenues:** No additional revenues would be expected since the court fees for Class D and Class C are both \$120.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction, Criminal Justice Institute.

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